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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/738,930

12/17/2003

Steven E. Lenda

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8474

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7590

06/02/2006

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/738,930

Applicant(s)

LEND A ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 17, 2006, has been entered.
2. The Examiner has carefully considered Applicant's amendment and accompanying response filed April 17, 2006. The rejections in view of Thompson et al. (US 5,298,694) and Juriga (US 5,536,556) have been overcome. However, after an updated search, additional prior art has been found which renders the invention as currently claimed unpatentable for reasons herein below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20 and 21 depend upon claim 14 which is written in closed language (i.e. consisting of). Therefore, these claims, which add an additional material to the laminate, are indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Doerfling (US 4,078,100). Doerfling discloses a composite foam laminate comprising a polyurethane foam layer and a lattice skrim (abstract). The foam laminates can be used in vehicle interior paneling (col 1, ln 5-9).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 14 , 15, 17, 18, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilton et al. (US 2003/0008581) in view of Thompson et al. (US 5,298,694). Tilton et al. disclose a liner used to insulate a vehicle door comprising a lofty pad of fibrous material (abstract). The lofty pad material can comprise synthetic fibers including polyester fibers, polyethylene fibers, polypropylene fibers, natural fibers, and any mixtures thereof [0044]. The liner as seen in Figures 3 and 4 comprises a facing material which includes a scrim, which can comprise glass fibers or polyester fibers [0041]. It is the Examiner's position that glass fibers are

hydrophobic. Tilton et al. disclose the claimed invention except for the specific teaching that the scrim is nonwoven.

Thompson et al. disclose an acoustical insulating web and a method for attenuating sound waves comprising a laminate of a nonwoven insulation web comprising thermoplastic fibers and a scrim layer. The laminate is adapted to be applied to the inner panel of a vehicle door (abstract). The nonwoven web comprises thermoplastic fibers and the scrim is a spunbond nonwoven scrim material, which will promote the integrity of the laminate (col 7, ln 41-46). It would have been obvious to one having ordinary skill in the art to have made the scrim of Tilton be a spunbond nonwoven, as disclosed by Thompson, motivated by the desire to create a scrim that has cheaper processing costs and to increase the structural integrity of the laminate.

Regarding claim 18, Tilton et al. and Thompson et al. disclose the claimed invention except for the teaching that the first layer has an air permeability greater than zero. While Tilton et al. and Thompson et al. fails to disclose the claimed air permeability, it is reasonable to presume that said air permeability property is inherent to the Tilton et al. and Thompson et al. invention. Support for said presumption is found in the use of like materials (i.e. a hydrophobic, spunbonded scrim and a lofty fibrous pad composed of synthetic and natural fibers). The burden is upon Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In addition, the presently claimed property of an air permeability greater than zero would obviously have been present once the Tilton et al. and Thompson product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tilton et al. (US 2003/0008581) and Thompson et al. (US 5,298,694) as applied to claim 14 above, and further in

view of Klaff et al. (US 4,608,298). Tilton et al. and Thompson et al. disclose the claimed invention except for the teaching that the scrim comprises a polymeric apertured film.

Klaff (US 4,608,298) disclose a weather resistant and insulating textile comprising a thin film of perforated chemical resistant polymer (col 4, ln 1-10). It would have been obvious to one having ordinary skill in the art to have used Klaff's perforated film as the scrim in Tilton et al. and Thompson et al., motivated by the desire to create a laminate having increased resistance to water and/or chemicals.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tilton et al. (US 2003/0008581) and Thompson et al. (US 5,298,694), as applied to claim 14 above, and further in view of Potts et al. (US 5,149,576). Tilton et al. and Thompson et al. disclose the claimed invention except for the teaching that the nonwoven scrim is formed as a spunbond-meltblown-spunbond trilaminate.

Potts et al. (US 5,149,576) discloses a nonwoven laminiferous structure comprising two adjacent nonwoven layers and a scrim layer interposed therebetween (col 9, ln 3-9). The laminate can comprise an SMS structure (col 16, ln 32-34). It would have been obvious to one having ordinary skill in the art to have used Potts' SMS structure as the scrim in Tilton et al. and Thompson et al., motivated by the desire to create a composite that couples the barrier properties of the meltblown web with the strength and abrasion resistance of spunbonded webs (col 16, ln 63-66).

Conclusion


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UCR




Ula C. Ruddock
Primary Examiner
Tech Center 1700